

### **REMARKS**

Applicants thank the Examiner for the thorough consideration given the present application.

Claims 5 and 7-11 are pending in this application. Claim 5 has been amended to further define the present invention. Therefore, no new matter has been added.

In view of the following remarks, Applicants respectfully request that the Examiner withdraw all rejections and allow the currently pending claims.

#### **Examiner's Interview**

Applicants would like to thank the Examiner for her time during the interview on July 30, 2008. Applicants appreciate the courtesies extended to them in this application. Although an agreement could not be reached, Applicants believe that the claims are now in condition for allowance. Should the Examiner believe that there remain any outstanding issues, Applicants respectfully request that the Examiner contact Applicants' Representative so as to expedite resolution of these outstanding issues, via an Examiner's Amendment or the like.

#### **Issues under 35 U.S.C. § 103(a)**

The Examiner has rejected claims 5 and 7-11 under 35 U.S.C. § 103(a) as being obvious over Ueda '103 (US 6,831,103) in view of Hamilton (J. Neurol. Neurosurg Psychiat, 1960, 23, 56). Applicants respectfully traverse this rejection.

The present invention is directed to a method for treating an individual with a mood disorder having at least one of a group of specific symptoms comprising administering an

effective amount of a composition comprising theanine to the individual in need thereof, wherein said mood disorders are distinct from mood disorders associated with menstruation, as recited in claim 5.

In the Advisory Action dated July 16, 2008, the Examiner responds to the Applicants' argument that Ueda '103 teaches anxiety, which is a distinct symptom from depressed mood by alleging that "the clinical manifestations and current treatment regimens for depressed mood overlap with those of anxiety (see Goodman & Gilman's, pages 450-451). Therefore, these are two mood disorders that overlap."

Applicants respectfully traverse because anxiety and mood disorder have been acknowledged as different diseases according to the Hamilton scale. However, in an effort to further prosecution, Applicants have amended claim 5 to recite, *inter alia*, "a method for treating an individual with a mood disorder." Applicants respectfully submit that this amendment further distinguishes the present invention from the cited prior art.

To establish a *prima facie* case of obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. (See MPEP 2143.03). As discussed above, the combination of references fails to teach or suggest all the claim limitations of independent claim 5, and those claims dependent thereon. Therefore, a *prima facie* case of obviousness has not been established, and withdrawal of the instant rejection is respectfully requested.

Applicants therefore respectfully submit that claims 5 and 7-11 clearly distinguish over the cited prior art.

As the above amendments and remarks address and overcome the rejections, withdrawal thereof and allowance of the claims are respectfully requested.

**CONCLUSION**


In summary, Applicants respectfully submit that the present claims define allowable subject matter. Therefore, the Examiner is respectfully requested to withdraw all rejections and allow the presently pending claims.

If the Examiner has any questions or comments, please contact Chad M. Rink, Reg. No. 58,258, at the offices of Birch, Stewart, Kolasch & Birch, LLP at the number of the undersigned below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to our Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under § 1.17; particularly, extension of time fees.

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Respectfully submitted,

By 

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